

loss, as determined by CCC, according to §1479.115.

Production means quantity of the crop or commodity produced expressed in a specific unit of measure such as bushels, pounds, etc.

Rate means price per unit of the crop or commodity.

Related condition means, with respect to a disaster, a condition that causes deterioration of a crop, such as insect infestation, plant disease, or aflatoxin, that is accelerated or exacerbated as a result of damaging weather, as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

State committee means the FSA State committee.

Uninsured crop means a crop for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, *basic unit* as described in part 457 of this title that, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For all non-insurable crops, the established unit of measure, if available, used for the 2003, 2004, or 2005 Noninsured Crop Assistance Program price and yield;

(3) For aquaculture species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquaculture species or varieties;

(4) For turf-grass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and to the extent the Deputy Administrator determines it to be feasible and appropriate, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the former Trust Territory of the Pacific Islands, which include Palau, Federated States of Micronesia and the Marshall Islands.

USDA means United States Department of Agriculture.

Value-loss crop has the meaning assigned in part 1437 of this chapter.

Verifiable production record means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

Yield means unit of production, measured in bushels, pounds, etc., per area of consideration, usually measured in acres.

§ 1479.103 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered losses of eligible crops in 2003, 2004, or 2005, as further specified in this

part, as a result of a disaster or related condition. Producers may not receive benefits with respect to volunteer stands of crops.

(b) Payments may be made for losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(c) As a condition to receive benefits under this part, a producer must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of 7 CFR part 12 for the 2003, 2004, or 2005 crop year, as applicable, and must not otherwise be barred from receiving benefits under 7 CFR part 12 or any other law.

§ 1479.104 Time for filing application.

Applications for benefits under the 2003, 2004, or 2005 Crop Disaster Program must be filed in the FSA county office in the producer's control county before the close of business on August 1, 2005, or such other date that may be announced by the Deputy Administrator.

§ 1479.105 Limitations on payments and other benefits.

(a) Except with respect to certain claims in Virginia and North Carolina, as specified in §§ 1479.121 and 1479.122, a producer may receive disaster benefits for crop losses for only one of the 2003, 2004, or 2005 crop years as specified under this part.

(b) Payments will not be made under this part for grazing losses.

(c) CCC may divide and classify crops based on loss susceptibility, yield, and other factors.

(d) No person, as defined by part 1400 subpart B of this chapter, shall receive more than a total of \$80,000 in disaster benefits under this part, unless otherwise specified.

(e) No producer shall receive disaster benefits under this part in an amount that exceeds 95 percent of the value of the expected production for the relevant period as determined by CCC. The sum of the value of the crop not lost, if any; the disaster payment received under this part; and any crop insurance payment or payments received under the NAP for losses to the same crop, cannot exceed 95 percent of what the crop's value would have been if there had been no loss.

(f) An individual or entity whose adjusted gross income is in excess of \$2.5 million, as defined by and determined under part 1400 subpart G of this chapter, shall not be eligible to receive disaster benefits under this part.

(g) Any person who received any payments from Section 32 of the Act of August 25, 1935, with respect to any 2004 hurricane losses, is not eligible for any payments under this part.

§ 1479.106 Requirement to purchase crop insurance and non-insurable coverage.

(a) Except as provided further in this section, any producer who elected not to purchase crop insurance on an insurable 2003, 2004, or 2005 crop for which the producer receives crop loss assistance or, for non-insurable crops, elected not to participate in NAP for the year for which benefits are received must purchase:

(1) Crop insurance with additional coverage on that crop for each of the next 2 crop years, as applicable, for the insurable crops.

(2) NAP coverage by paying the administrative fee by the applicable State filing deadline and complete all required program requirements, including yearly acreage reports, for the non-insurable crop for each of the next 2 crop years, as applicable, for the non-insurable crops.

(b) If, at the time the producer applies for the CDP and benefits under §§ 1479.121 or 1479.122, the sales closing date for next year's insurable crops, or for the next year's non-insurable crops for which the producer sought benefits under this part has passed, the producer must purchase a crop insurance